

STATE OF IOWA  
PROPERTY ASSESSMENT APPEAL BOARD

**Midwest One Bank,**  
Petitioner-Appellant,

v.

**Grundy County Board of Review,**  
Respondent-Appellee.

**ORDER**

**Docket No. 11-38-0230**  
**Parcel No. 8617-30-385-003**

On May 3, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. The appellant Midwest One Bank was represented by Kyran Cook of Cook Appraisal, Iowa City, Iowa, and submitted evidence in support of its appeal. The Grundy County Board of Review designated County Attorney Kirby D. Schmidt as its counsel. The Appeal Board now having examined the entire record and being fully advised, finds:

***Findings of Fact***

Midwest One Bank (Midwest) owner of property located at 120 W Center Street, Conrad, Iowa, appeals from the Grundy County Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2011, assessment and valued at \$587,260; representing \$24,300 in land value and \$562,960 in improvement value.

Midwest protested to the Board of Review on the grounds that the property was not equitably assessed compared to other like properties under Iowa Code section 441.37(1)(a); and that the property was assessed for more than authorized by law under section 441.37(1)(b). In response to the protest, the Board of Review granted partial relief. It reduced the assessed value to \$559,660.



Midwest then appealed to this Board on the same grounds. Midwest values the property at \$482,000.

The subject property is a one-story, brick veneer bank building. The subject property was built in 1981 and is 4191 square feet. It has above average quality construction and is in above normal condition. The site consists of 0.620 acres of land.

As a consultant for Midwest, Kyran Cook valued the subject property as of January 1, 2011. He concluded a value of \$482,000. Cook relied exclusively on the sales approach and considered four bank sales and two office sales to determine his estimate of value. The sales took place between April 2008 and August 2010. The sales ranged from \$84.88 per square foot to \$147.15 per square foot. After adjustment, the range was \$106.10 to \$122.13. The four bank sales' adjusted range was from \$118.37 to \$122.13 per square foot.

John Freese, Grundy County Assessor, submitted evidence on behalf of the Board of Review. Freese points out that two of Cook's sales are "bad" sales. He stated the sale located at 509 A Avenue West in Oskaloosa was coded by the Assessor's Office as an unusable sale. However, Freese did not indicate why the sale was unusable. By failing to explain why the sale should not be used, this Board is hesitant to assume it is altogether unreliable. The comparable property sheet in Cook's appraisal indicates this property sold from Horizon Bank to Valley Bank. Cook does not believe this sale is a "bad" sale.

The other "bad" sale was located at 1022 W Pleasant in Knoxville, and Freese states it was a corporate merger. Cook, however, refutes Freese's statements and contends that this sale also sold from one operating bank to another. The comparable property sheet in Cook's appraisal indicates this property sold from Oskaloosa Home Loan & Savings Association to Valley Bank. Cook asserts these two sales, which sold at \$144 and \$147 per square foot are reasonable considerations of value. He believes two sales considered by the Board of Review, which have sales prices of \$147 and \$145 per



square foot, further supports his position that these sales are reasonable reflections of the market.

While we note this analysis by Cook is of unadjusted sales data, without further explanation of why these sales may not be reflective of the market we find them to be reasonable comparables.

Freese also submitted three sales from 2008 to 2010, on behalf of the Board of Review. He listed the sales price, total square footage, sales price per square foot, and the sale location. The sales price ranged from \$220,000 to \$1,171,919. The per-square-foot sale price ranged from \$145 to \$174. In his opinion, the Board of Review's value of the subject property at approximately \$134 per square foot is lower than the sales range. We note, however, none of the sales are adjusted to account for differences between them and the subject property and therefore, we give them minimal consideration.

Finally, Freese believes Cook is in violation of the Uniform Standards of Professional Appraisal Practice (USPAP)<sup>1</sup> for completing the assignment on a contingency fee basis while certifying that his report was completed with "no present or prospective interest in the property." Cook concedes he completed the assignment on a contingency fee basis and acknowledges he erred by including the certification indicating he did not have an interest. Cook asserts his value is unbiased, regardless of his fee arrangement, and that he is allowed to provide contingent based services outside of USPAP. This Board lacks the jurisdiction to make a determination of whether USPAP has been violated. The proper Board to hear a USPAP complaint would be the Iowa Real Estate Appraiser Examining Board. Regardless of the Board of Review's USPAP complaint, we find the data and analysis presented in the valuation do not indicate Cook's opinion is biased even considering the contingency fee arrangement.

After reviewing all the evidence in the record, we find a preponderance of the evidence shows the subject property is over-assessed. We believe Cook's adjusted sale information supports

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<sup>1</sup> An appraiser must comply with USPAP when obligated by law or regulation, or by agreement with the client or intended users. In addition to these requirements, an individual should comply any time that individual represents that he or she is performing the service as an appraiser. *Uniform Standards of Professional Appraisal Practice*, ETHICS RULE.



Midwest's contention. The Board of Review's sales information was unadjusted and as previously noted, we give it minimal consideration. Additionally, considering all of the sales used by Cook, we reject the two professional property sales used in his analysis. Although we understand Cook's explanation for choosing them, we do not find them sufficiently comparable to the subject property. Furthermore, these two sales, when compared to the banks sales, reduced the adjusted range of value. This Board therefore finds the approximate median value of the bank sales, at \$120 per square foot, is the most reliable value indicator for the subject property. Therefore, we determine the assessment value to be \$503,000 (rounded) (\$120 per square foot x 4191 square feet).

### ***Conclusions of Law***

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determined anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.* 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable property in normal transactions are to be considered in arriving at market value. *Id.* If



sales are not available, “other factors” may be considered in arriving at market value. § 441.21(2).

The assessed value of the property “shall be one hundred percent of its actual value.” § 441.21(1)(a)

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekoloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). There is statutory preference for establishing market values using sales of comparable properties. *Soifer v. Floyd County Board of Review*, 759 N.W.2d 775, 779 (Iowa 2009). The issue of comparability has two facets: the property must be comparable and the sale of that property must be a “normal transaction”. *Id.* at 782-83. When sales of other properties are offered, they must be adjusted for differences that affect market value. *Id.* at 783. These differences could include size, age, use, condition and location, among others. *Id.* In addition, if a sale is “abnormal” or not arms-length, it must be analyzed to determine if an adjustment is necessary. *Id.*

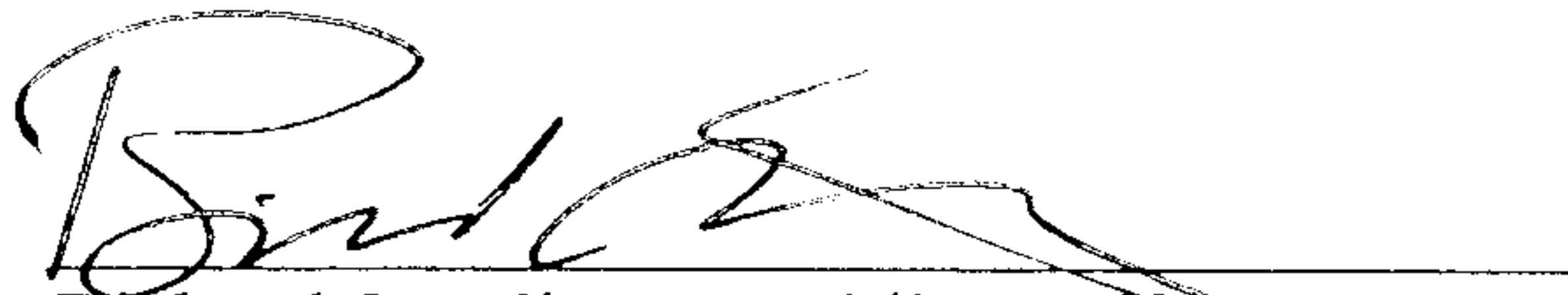
Viewing the evidence as a whole we determine that substantial evidence exists to support Midwest’s claim of being over-assessed as of January 1, 2011. We, therefore, modify the Midwest property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment as of January 1, 2011, is \$503,000; representing \$24,300 in land value and \$478,700 in improvement value.

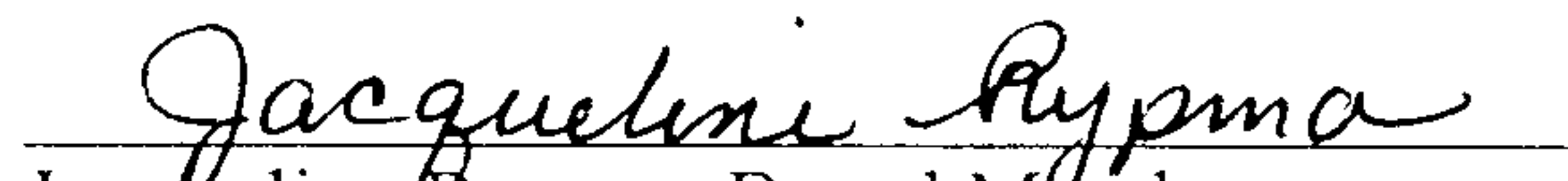
THE APPEAL BOARD ORDERS the assessment of the Midwest One Bank property located at 120 Center Street, Conrad, Iowa, as determined by the Grundy County Board of Review is modified as set forth herein.



The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Grundy County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 12 day of July 2012.

  
Richard Stradley, Presiding Officer

  
Jacqueline Rypma, Board Member

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>7-12</u> , 2012.	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
	<input type="checkbox"/> Certified Mail <input type="checkbox"/> Other
Signature	